

Senate File 356

S-3353

1 Amend Senate File 356 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <Section 1. Section 331.559, subsection 20, Code 2017, is
5 amended to read as follows:

6 20. Apportion and collect the costs assessed by the district
7 court against the board of review or any taxing ~~body~~ district
8 resulting from an appeal of property assessments as provided
9 in section 441.40.

10 Sec. 2. Section 428.4, subsection 1, Code 2017, is amended
11 to read as follows:

12 1. Property shall be assessed for taxation each year.
13 Real estate shall be listed and assessed in 1981 and every
14 two years thereafter. The assessment of real estate shall
15 be the value of the real estate as of January 1 of the year
16 of the assessment. The year 1981 and each odd-numbered year
17 thereafter shall be a reassessment year. In any year, after
18 the year in which an assessment has been made of all the real
19 estate in an assessing jurisdiction, the assessor shall value
20 and assess or revalue and reassess, as the case may require,
21 any real estate that the assessor finds was incorrectly valued
22 or assessed, or was not listed, valued, and assessed, in the
23 assessment year immediately preceding, also any real estate
24 the assessor finds has changed in value subsequent to January
25 1 of the preceding real estate assessment year. However, a
26 percentage increase on a class of property shall not be made
27 in a year not subject to an equalization order unless ordered
28 by the department of revenue. The assessor shall determine
29 the actual value and compute the taxable value thereof as of
30 January 1 of the year of the revaluation and reassessment. The
31 assessment shall be completed as specified in section 441.28,
32 but no reduction or increase in actual value shall be made for
33 prior years. If an assessor makes a change in the valuation
34 of the real estate as provided for, sections 441.23, 441.37,
35 441.37A, and 441.38, ~~and 441.39~~ apply.

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1 Sec. 3. Section 441.19, subsection 1, paragraph a, Code
2 2017, is amended to read as follows:

3 a. Supplemental and optional to the procedure for the
4 assessment of property by the assessor as provided in this
5 chapter, the assessor may require from all persons required
6 to list their property for taxation as provided by sections
7 428.1 and 428.2, a supplemental return to be prescribed by
8 the director of revenue upon which the person shall list
9 the person's property. The supplemental return shall be in
10 substantially the same form as now prescribed by law for
11 the assessment rolls used in the listing of property by the
12 assessors. However, for assessment years beginning on or after
13 January 1, 2018, and unless otherwise required for property
14 valued by the department of revenue pursuant to chapters 428,
15 433, 437, and 438, a supplemental return shall not request,
16 and a person shall not be otherwise required to provide to the
17 assessor for property assessment purposes, sales or receipts
18 data, expense data, balance sheets, bank account information,
19 or other data related to the financial condition of a business
20 operating in whole or in part on the property if the property
21 is both classified as commercial or industrial property and
22 owned and used by the owner of the business. Every person
23 required to list property for taxation shall make a complete
24 listing of the property upon supplemental forms and return the
25 listing to the assessor as promptly as possible. The return
26 shall be verified over the signature of the person making the
27 return and section 441.25 applies to any person making such
28 a return. The assessor shall make supplemental return forms
29 available as soon as practicable after the first day of January
30 of each year. The assessor shall make supplemental return
31 forms available to the taxpayer by mail, or at a designated
32 place within the taxing district.

33 Sec. 4. Section 441.21, subsection 2, Code 2017, is amended
34 to read as follows:

35 2. In the event market value of the property being assessed

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1 cannot be readily established in the foregoing manner, then
2 the assessor may determine the value of the property using the
3 other uniform and recognized appraisal methods including its
4 productive and earning capacity, if any, industrial conditions,
5 its cost, physical and functional depreciation and obsolescence
6 and replacement cost, and all other factors which would assist
7 in determining the fair and reasonable market value of the
8 property but the actual value shall not be determined by use
9 of only one such factor. The following shall not be taken into
10 consideration: Special value or use value of the property to
11 its present owner, and the goodwill or value of a business
12 which uses the property as distinguished from the value of
13 the property as property. In addition, for assessment years
14 beginning on or after January 1, 2018, and unless otherwise
15 required for property valued by the department of revenue
16 pursuant to chapters 428, 433, 437, and 438, the assessor
17 shall not take into consideration and shall not request from
18 any person sales or receipts data, expense data, balance
19 sheets, bank account information, or other data related to
20 the financial condition of a business operating in whole or
21 in part on the property if the property is both classified as
22 commercial or industrial property and owned and used by the
23 owner of the business. However, in assessing property that
24 is rented or leased to low-income individuals and families
25 as authorized by section 42 of the Internal Revenue Code,
26 as amended, and which section limits the amount that the
27 individual or family pays for the rental or lease of units
28 in the property, the assessor shall, unless the owner elects
29 to withdraw the property from the assessment procedures for
30 section 42 property, use the productive and earning capacity
31 from the actual rents received as a method of appraisal and
32 shall take into account the extent to which that use and
33 limitation reduces the market value of the property. The
34 assessor shall not consider any tax credit equity or other
35 subsidized financing as income provided to the property in

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1 determining the assessed value. The property owner shall
2 notify the assessor when property is withdrawn from section 42
3 eligibility under the Internal Revenue Code or if the owner
4 elects to withdraw the property from the assessment procedures
5 for section 42 property under [this subsection](#). The property
6 shall not be subject to section 42 assessment procedures
7 for the assessment year for which section 42 eligibility is
8 withdrawn or an election is made. This notification must
9 be provided to the assessor no later than March 1 of the
10 assessment year or the owner will be subject to a penalty of
11 five hundred dollars for that assessment year. The penalty
12 shall be collected at the same time and in the same manner
13 as regular property taxes. An election to withdraw from the
14 assessment procedures for section 42 property is irrevocable.
15 Property that is withdrawn from the assessment procedures
16 for section 42 property shall be classified and assessed as
17 multiresidential property unless the property otherwise fails
18 to meet the requirements of [section 441.21, subsection 13](#).
19 Upon adoption of uniform rules by the department of revenue
20 or succeeding authority covering assessments and valuations
21 of such properties, the valuation on such properties shall be
22 determined in accordance with such rules and in accordance with
23 forms and guidelines contained in the real property appraisal
24 manual prepared by the department as updated from time to time
25 for assessment purposes to assure uniformity, but such rules,
26 forms, and guidelines shall not be inconsistent with or change
27 the foregoing means of determining the actual, market, taxable
28 and assessed values.

29 Sec. 5. Section 441.37A, subsection 1, Code 2017, is amended
30 to read as follows:

31 1. *a.* ~~For the assessment year beginning January 1, 2007,~~
32 ~~and all subsequent assessment years beginning before January 1,~~
33 ~~2021, appeals~~ Appeals may be taken from the action of the board
34 of review with reference to protests of assessment, valuation,
35 or application of an equalization order to the property

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1 assessment appeal board created in [section 421.1A](#). However, a
2 property owner or aggrieved taxpayer or an appellant described
3 in [section 441.42](#) may bypass the property assessment appeal
4 board and appeal the decision of the local board of review to
5 the district court pursuant to [section 441.38](#).

6 *b.* For an appeal to the property assessment appeal board to
7 be valid, ~~written notice must be filed by the party appealing~~
8 ~~the decision with the secretary of the property assessment~~
9 ~~appeal board~~ a party must file an appeal with the board within
10 twenty days after the date of adjournment of the local board
11 of review or May 31, whichever is later. The ~~written notice~~
12 ~~of appeal shall include a petition setting forth the basis of~~
13 ~~the appeal and the relief sought. No new grounds in addition~~
14 ~~to those set out in the protest to the local board of review~~
15 ~~as provided in [section 441.37](#) can be pleaded, but additional~~
16 ~~evidence to sustain those grounds may be introduced. The~~
17 ~~assessor shall have the same right to appeal to the assessment~~
18 ~~appeal board as an individual taxpayer, public body, or other~~
19 ~~public officer as provided in [section 441.42](#). An appeal to the~~
20 ~~board is a contested case under [chapter 17A](#).~~

21 *c.* Filing of the ~~written notice of appeal and petition~~
22 ~~with the secretary of the property assessment appeal board~~
23 ~~shall preserve all rights of appeal of the appellant, except as~~
24 ~~otherwise provided in [subsection 2](#). A copy of the appellant's~~
25 ~~written notice of appeal and petition shall be mailed by the~~
26 ~~secretary of the property assessment appeal board to the local~~
27 ~~board of review whose decision is being appealed.~~

28 *d.* ~~In all cases where a change in assessed valuation of one~~
29 ~~hundred thousand dollars or more is petitioned for, the local~~
30 ~~board of review shall mail a copy of the written notice of~~
31 ~~appeal and petition to all affected taxing districts as shown~~
32 ~~on the last available tax list. A copy of the appellant's~~
33 appeal shall be sent by the property assessment appeal board to
34 the local board of review whose decision is being appealed.

35 *e.* The property assessment appeal board may, by rule,

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1 provide for the filing of ~~a notice of appeal and petition with~~
2 ~~the secretary of the board~~ an appeal by electronic means. All
3 requirements of this section for an appeal to the board shall
4 apply to an appeal filed electronically.

5 Sec. 6. Section 441.37A, subsection 2, paragraph b, Code
6 2017, is amended to read as follows:

7 b. Each appeal may be considered by one or more members of
8 the board, and the chairperson of the board may assign members
9 to consider appeals. If a hearing is requested, it shall be
10 open to the public and shall be conducted in accordance with
11 the rules of practice and procedure adopted by the board. The
12 board may provide by rule for participation in such hearings
13 by telephone or other means of electronic communication.
14 However, any deliberation of the board or of board members
15 considering the appeal in reaching a decision on any appeal
16 shall be confidential. Any deliberation of the board or of
17 board members to rule on procedural motions in a pending appeal
18 or to deliberate on the decision to be reached in an appeal
19 is exempt from the provisions of chapter 21. The property
20 assessment appeal board or any member of the board considering
21 the appeal may require the production of any books, records,
22 papers, or documents as evidence in any matter pending before
23 the board that may be material, relevant, or necessary for the
24 making of a just decision. Any books, records, papers, or
25 documents produced as evidence shall become part of the record
26 of the appeal. Any testimony given relating to the appeal
27 shall be ~~transcribed~~ electronically recorded and made a part of
28 the record of the appeal.

29 Sec. 7. Section 441.37A, subsection 3, Code 2017, is amended
30 to read as follows:

31 3. a. The burden of proof for all appeals before the
32 board shall be as stated in section 441.21, subsection 3. The
33 board members considering the appeal shall determine anew all
34 questions arising before the local board of review ~~which that~~
35 relate to the liability of the property to assessment or the

1 amount ~~thereof~~ of the assessment. All of the evidence shall
2 be considered and there shall be no presumption as to the
3 correctness of the valuation of assessment appealed from. ~~The~~
4 ~~property assessment appeal board shall issue a decision in each~~
5 ~~appeal filed with the board.~~ If the appeal is considered by
6 less than the full membership of the board, the determination
7 made by such members shall be forwarded to the full board
8 for approval, rejection, or modification. If the initial
9 determination is rejected by the board, it shall be returned
10 for reconsideration to the board members making the initial
11 determination. ~~Any deliberation of the board regarding an~~
12 ~~initial determination shall be confidential.~~

13 **b.** The decision of the board shall be considered the final
14 agency action ~~for purposes of further appeal, and is subject~~
15 to judicial review as provided in section 441.37B, except as
16 otherwise provided in section 441.49. ~~The decision shall be~~
17 ~~final unless appealed to district court as provided in section~~
18 ~~441.38.~~ A decision of the board modifying an assessment shall
19 be sent to the county auditor and the assessor, who shall
20 correct the assessment books accordingly. An appeal of the
21 board's decision under section 441.37B shall not itself stay
22 execution or enforcement of the board's decision.

23 **c.** The levy of taxes on any assessment appealed to the board
24 shall not be delayed by any proceeding before the board, and
25 if the assessment appealed from is reduced by the decision of
26 the board, any taxes levied upon that portion of the assessment
27 reduced shall be abated or, if already paid, shall, by order
28 of the board, be refunded or credited against future property
29 taxes levied against the property at the option of the property
30 owner or aggrieved taxpayer.

31 **d.** If the subject of an appeal is the application of an
32 equalization order, the property assessment appeal board shall
33 not order a reduction in assessment greater than the amount
34 that the assessment was increased due to application of the
35 equalization order.

1 e. Each party to the appeal shall be responsible for the
2 costs of the appeal incurred by that party.

3 Sec. 8. NEW SECTION. 441.37B Appeal to district court from
4 property assessment appeal board.

5 A party who is aggrieved or adversely affected by a final
6 action of the property assessment appeal board may seek
7 judicial review of the action as provided in chapter 17A.
8 Notwithstanding section 17A.19, subsection 2, a petition for
9 judicial review of the action of the property assessment appeal
10 board shall be filed in the district court of the county where
11 the property that is subject to the appeal is located.

12 Sec. 9. Section 441.38, Code 2017, is amended to read as
13 follows:

14 **441.38 Appeal to district court from local board of review.**

15 1. Appeals may be taken from the action of the local board
16 of review with reference to protests of assessment, to the
17 district court of the county in which the board holds its
18 sessions within twenty days after ~~its~~ the board's adjournment
19 or May 31, whichever date is later. ~~Appeals may be taken from~~
20 ~~the action of the property assessment appeal board to the~~
21 ~~district court of the county where the property which is the~~
22 ~~subject of the appeal is located within twenty days after the~~
23 ~~letter of disposition of the appeal by the property assessment~~
24 ~~appeal board is postmarked to the appellant. No new grounds~~
25 ~~in addition to those set out in the protest to the local board~~
26 ~~of review as provided in section 441.37, or in addition to~~
27 ~~those set out in the appeal to the property assessment appeal~~
28 ~~board, if applicable, can be pleaded. Additional evidence~~
29 ~~to sustain those grounds may be introduced in an appeal from~~
30 ~~the local board of review to the district court. However, no~~
31 ~~new evidence to sustain those grounds may be introduced in~~
32 ~~an appeal from the property assessment appeal board to the~~
33 ~~district court. The assessor shall have the same right to~~
34 ~~appeal and in the same manner as an individual taxpayer, public~~
35 ~~body, or other public officer as provided in section 441.42.~~

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1 Appeals shall be taken by filing a written notice of appeal
2 with the clerk of district court. Filing of the written notice
3 of appeal shall preserve all rights of appeal of the appellant.

4 ~~2. If the appeal to district court is taken from the action~~
5 ~~of the local board of review, notice~~ Notice of appeal shall
6 be served as an original notice on the chairperson, presiding
7 officer, or clerk of the board of review after the filing of
8 notice under subsection 1 with the clerk of district court. ~~If~~
9 ~~the appeal to district court is taken from the action of the~~
10 ~~property assessment appeal board, notice of appeal shall be~~
11 ~~served as an original notice on the secretary of the property~~
12 ~~assessment appeal board after the filing of notice under~~
13 ~~subsection 1 with the clerk of district court.~~

14 3. The court shall hear the appeal in equity and determine
15 anew all questions arising before the board of review that
16 relate to the liability of the property to assessment or
17 the amount of the assessment. The court shall consider all
18 of the evidence and there shall be no presumption as to the
19 correctness of the valuation or assessment appealed from. The
20 court's decision shall be certified by the clerk of the court
21 to the county auditor and the assessor, who shall correct the
22 assessment books accordingly.

23 Sec. 10. Section 441.39, Code 2017, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **441.39 Notice of assessment protests and appeals to taxing**
26 **districts.**

27 1. If a property owner or aggrieved taxpayer appeals a
28 decision of the board of review to the property assessment
29 appeal board or to district court and requests an adjustment in
30 valuation of one hundred thousand dollars or more, the assessor
31 shall notify all affected taxing districts as shown on the last
32 available tax list.

33 2. In addition to any other requirement for providing
34 of notice, if a property owner or aggrieved taxpayer files
35 a protest against the assessment of property valued by the

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1 assessor at five million dollars or more or files an appeal
2 to the property assessment appeal board or the district court
3 with regard to such property, the assessor shall provide notice
4 to the school district in which such property is located
5 within ten days of the filing of the protest or the appeal, as
6 applicable.

7 Sec. 11. Section 441.40, Code 2017, is amended to read as
8 follows:

9 **441.40 Costs, fees, and expenses apportioned.**

10 The clerk of the court shall likewise certify to the county
11 treasurer the costs assessed by the court on any appeal from a
12 board of review to the district court, in all cases where ~~said~~
13 the costs are taxed against the board of review or any taxing
14 ~~body~~ district. Thereupon the county treasurer shall compute
15 and apportion the ~~said~~ costs between the various taxing ~~bodies~~
16 districts participating in the proceeds of the collection of
17 the taxes involved in any such appeal, and ~~said~~ the treasurer
18 shall so compute and apportion the various amounts which ~~said~~
19 the taxing ~~bodies~~ districts are required to pay in proportion
20 to the amount of taxes each of ~~said~~ the taxing ~~bodies~~ districts
21 is entitled to receive from the whole amount of taxes involved
22 in each of such appeals. The ~~said~~ county treasurer shall
23 deduct from the proceeds of all general taxes collected the
24 amount of costs so computed and apportioned by the treasurer
25 from the moneys due to each taxing ~~body~~ district from general
26 taxes collected. The amount ~~so~~ deducted shall be certified to
27 each taxing ~~body~~ district in lieu of moneys collected. ~~Said~~
28 The county treasurer shall pay to the clerk of the district
29 court the amount of ~~said~~ the costs so computed, apportioned,
30 and collected by the treasurer in all cases now on file or
31 hereafter filed in which ~~said~~ the costs have not been paid.

32 Sec. 12. Section 441.41, Code 2017, is amended to read as
33 follows:

34 **441.41 Legal counsel.**

35 In the case of cities having an assessor, the city legal

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1 department shall represent the assessor and board of review
2 in all litigation dealing with assessments. In the case of
3 counties, the county attorney shall represent the assessor and
4 board of review in all litigation dealing with assessments.
5 Any taxing ~~body~~ district interested in the taxes received from
6 such assessments may be represented by an attorney and shall
7 be required to appear by attorney upon written request of the
8 assessor to the presiding officer of any such taxing ~~body~~
9 district. The conference board may employ special counsel to
10 assist the city legal department or county attorney as the case
11 may be.

12 Sec. 13. Section 441.44, Code 2017, is amended to read as
13 follows:

14 **441.44 Notice of voluntary settlement.**

15 1. The property assessment appeal board may adopt rules
16 establishing requirements for notices of voluntary settlements
17 in appeals before the board to be served upon affected taxing
18 districts.

19 2. No A voluntary court settlement of an assessment appeal
20 shall not be valid unless written notice ~~thereof~~ of the
21 settlement shall first be served upon each of the affected
22 ~~taxing bodies interested in the taxes derived from such~~
23 assessment districts.

24 Sec. 14. Section 443.11, Code 2017, is amended to read as
25 follows:

26 **443.11 Procedure on appeal.**

27 The appeal provided for in section 443.8 shall be taken
28 within ten days from the time of the final action of the
29 assessor or auditor, by a written notice to that effect to the
30 assessor or auditor, and served as an original notice. The
31 court on appeal shall hear and determine the rights of the
32 parties in the same manner as appeals from the board of review,
33 as prescribed in sections 441.39 441.38 and 441.43.

34 Sec. 15. Section 602.8102, subsection 61, Code 2017, is
35 amended to read as follows:

1 61. Certify the final decision of the district court
2 in an appeal of the tax assessments as provided in section
3 ~~441.39~~ 441.37B or 441.38. Costs of the appeal to be assessed
4 against the board of review or a taxing ~~body~~ district shall be
5 certified to the treasurer as provided in section 441.40.

6 Sec. 16. REPEAL. 2005 Iowa Acts, chapter 150, section 134,
7 as amended by 2013 Iowa Acts, chapter 123, section 62, and 2015
8 Iowa Acts, chapter 109, section 1, is repealed.

9 Sec. 17. REPEAL. Sections 441.38A and 441.38B, Code 2017,
10 are repealed.

11 Sec. 18. APPLICABILITY. This Act applies to assessment
12 years beginning on or after January 1, 2018.>

13 2. Title page, by striking lines 1 through 4 and inserting:
14 <An Act relating to property tax assessments by modifying
15 requirements for the determination of value, modifying
16 provisions related to the property assessment appeal board by
17 striking the future repeal of provisions relating to the board,
18 modifying procedures and requirements for appeals to the board,
19 and including applicability provisions.>

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